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S.A.

C. DUKES SCOTT
EXECUTIVE DIRECTOR

P.O. Box 11263
Columbia, S.C. 29211



Phone: (803) 737-0800
Fax: (803) 737-0801

DAN F. ARNETT
CHIEF OF STAFF

VIA HAND DELIVERY

March 30, 2006

Mr. Charles L.A. Terreni
Chief Clerk/Administrator
South Carolina Public Service Commission
101 Executive Center Drive
Columbia, SC 29210

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Re: Docket No. 2006-9-WS

ORS comments to the Commission's latest proposed changes to Articles 5 and 7 of Commission Regulations

Dear Mr. Terreni:

Following is a list of comments submitted by the ORS Staff in accordance with the Public Service Commission's proposed amendments to Article 5 (Sewerage Utilities) and Article 7 (Water Utilities) of the Commission's Regulations filed with the South Carolina Legislative Council on February 10, 2006.

The ORS appreciates the opportunity afforded it by the Commission in the continued development of these regulations.

1. **103-501(3) and 103-701(3).** The ORS would recommend that the recent change to these two Regulations be amended. The recently amended Regulations read: "3. Waiver of Rules. In any case where compliance with any of these rules and regulations introduces unusual difficulty or where circumstances indicate that a waiver of one or more rules or regulations is otherwise appropriate, such rules or regulations may be waived by the Commission upon a finding by the Commission that such waiver is not contrary to the public interest." The ORS recommends that it be re-written to read: "3. Waiver of Rules. In any case where compliance with any of these rules and regulations introduces unusual difficulty or where circumstances indicate that a waiver of one or more rules or regulations is otherwise necessary, such rules or regulations may be waived by the Commission upon a finding by the Commission that such waiver is not adverse to the rights of the parties to the case and is in the public interest."
2. **103-512.3.2 and 103-712.3.2.** The ORS suggests that the last sentence of these Regulations, which provide for the use of personal financial statements as sufficient surety for the posting of performance bonds for water and wastewater utilities, be deleted. As stated by the ORS in other proceedings before this Commission, we believe that the use of personal financial statements is unreliable surety for the required bond.

3. **103-512.3.3 and 103-712.3.3.** Should the Commission choose to adopt the above recommended changes to Regulations 103-512.3.2 and 103-712.3.2 then these Regulations become unnecessary as they describe the method for filing a personal financial statement as surety for a performance bond .
4. **103-532.4 and 103-732.5.** As some customers of water and sewer utilities may on occasion request to be disconnected from a system, the ORS suggests that the first sentence of these two regulations be amended to read: “Whenever service is disconnected for violation of rules and regulations, nonpayment of bills ~~or~~, fraudulent use of service, **or at the request of the customer**, the utility
5. **103-532.4.** The ORS further suggests that the language of the last sentence of this Regulation be amended from the current: “A disconnection fee can be reduced to thirty-five dollars (\$35.00) when disconnection has been made by the use of an elder valve” to “The reconnection fee shall be reduced to thirty-five dollars (\$35.00) when disconnection has been made by the use of an elder valve or similar device not requiring a physical disconnection.” The ORS believes that this change would clarify that the charge to the customer is for reconnection, and not disconnection as the regulation currently reads. Further, the ORS has recently been made aware that certain utilities use a variety of valves and devices similar to an elder valve which may be used to cut off system customers without the utility needing to perform a physical disconnection from the system.
6. **103-535(A) and 103-735(A).** The ORS suggests that “Commission” be deleted in this Regulation and substituted with “ORS.” The Commission does not have inspectors or other personnel capable of determining if a dangerous or hazardous condition exists. The ORS does employ consumer services and water division personnel who may observe or be called to a facility and need to make such a determination. Further, neither the Commission nor its Staff could make such a determination or order the discontinuance of service by a utility without causing potential ex parte problems should a matter related to the discontinuance come before the Commission at a later date. The ORS suggests that this Regulation read: “A. Without notice in the event of a condition determined by the utility, the ORS, or the Department of Health and Environmental Control to be hazardous or dangerous.”
7. **103-535.1 and 103-735.1.** The ORS recommends that an additional sentence be added to these two Regulations. Following the first sentence of each Regulation, the ORS suggests that the Commission add a sentence to read: “The thirty (30) day notice shall also include notification to the customer of the availability of investigation and review of any unresolved dispute between the customer and the utility by the ORS and shall include the ORS’ contact information.” The ORS believes that customers who are about to be disconnected should be made aware of the existence of the ORS, its ability to investigate and negotiate disputes between consumers and utilities, and how ORS can be contacted.
8. **103-743.** The ORS recommends that a second paragraph be added to this regulation, making the current paragraph (A) and adding the following: “(B) A water utility shall not be allowed to enter into a loan agreement without the approval of the Commission. This rule shall not apply to any loan agreement payable within one year from the date of the agreement, except in case of subsequent agreements made to refund such short-term obligations; but short term obligations may be renewed by similar obligations without the approval of the Commission for an aggregate period not exceeding two years. This rule shall not apply in the case of an emergency as determined by the Commission.” The ORS suggests this addition based on its concern that a utility may become obligated to an agreement that would impact the utility’s ability to continue to provide adequate wastewater service to its customers. A long-term loan agreement may affect the utility’s financial fitness, and thereby its willingness or ability to

provide sewer service. The ORS further recommends that the title of this Regulation be changed to "Contracts and Financial Agreements."

9. **103-541.** The ORS recommends the same change to this section as 103-743 above, as the two contain essentially the same language, with the exception of the use of the word "wastewater" in place of "water."
10. **103-581(B) and 103-781(B).** The ORS recommends that the word "Commission" be removed from these Regulations as the Commissions knowledge of such information may prejudice the Commission or be considered as ex parte information outside the record in future proceedings concerning any utilities which may experience such accidents.

Thank you for allowing the Office of Regulatory Staff the opportunity to be a part of the workshop and other events involved in the development of these Regulations.

Yours Truly,



Jeffrey M. Nelson